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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,845	01/22/2002	Jeffrey D. Jordan	LAR 16307-1-SB	6048
23351	7590	02/09/2005	EXAMINER	
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION LANGLEY RESEARCH CENTER 3 LANGLEY BOULEVARD MAIL STOP 212 HAMPTON, VA 236812199			NGUYEN, CAM N	
			ART UNIT	PAPER NUMBER
			1754	
DATE MAILED: 02/09/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/056,845

Applicant(s)

JORDAN ET AL.

Examiner

Cam N Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10/15/04 (an amendment).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Applicants' remarks and amendments, filed on October 15, 2004, have been carefully considered. Claims 1-11 have been amended. Claims 12-16 have been canceled.

Claims 1-11 are now pending in this application.

### ***Claim Rejections - 35 USC § 102(e)***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Bogdan et al., "hereinafter Bogdan", (US Pat. 6,495,487 B1).

Bogdan discloses a catalytic composite consisting essentially of a combination of

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a refractory inorganic support with from about 0.1 to 10 mass-% on an elemental basis of a halogen component, about 0.01 to 2 mass-% on an elemental basis of a platinum component, about 0.01 to 5 mass-% on an elemental basis of a Group IVA (IUPAC 14) metal component selected from the group consisting of tin and germanium, about 0.1 to 5 mass-% on an elemental basis of an indium component and about 0.05 to 5 mass-% on an elemental basis of a lanthanide-series metal component selected from the group consisting of cerium and lanthanum (see col. 16, claim 1). Bogdan further discloses that the catalyst may also contain other components or mixtures thereof which act alone or in concert as catalyst modifiers to improve activity, selectivity or stability. Suitable and known catalyst modifiers including rhenium, cobalt, nickel, iron, tungsten, molybdenum, chromium, bismuth, antimony, zinc, cadmium, and copper. See col. 9, In 66- col. 10, In 4. Suitable refractory inorganic oxides including zirconia (see col. 4, In 17).

Bogdan discloses the claimed catalyst, thus anticipates the claims.

The claimed metal contents are met by the reference (see col. 16, claim 1).

Regarding claims 7-11, the intended use limitations in the claims are noted.

However, they do not distinguish the product per se, since it is well settled that terms merely setting forth intended use for, or property inherent in, an otherwise old composition do not differentiate the claimed composition from those disclosed in the prior art. See, In re Pearson 181, USPQ 641. Also, "It is contrary to spirit and patent laws that patents be granted for old compositions of matter based on new uses of compositions where uses consist merely in employment of compositions; patentee is

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entitled to every use of which invention is susceptible, whether such use be known or unknown to him". See, *In re Thuau*, 57 USPQ 324.

### ***Response to Arguments***

4. Applicants' remarks, filed on October 15, 2004, has been fully reconsidered, but not deemed persuasive for the following reasons.

Applicants urged, that the claims as now amended are claiming a catalyst which does not comprise a halogen component. This is noted, however, not found persuasive because: (1) applicants did not provide reasoning as to why applicants excluded the halogen component from the instantly claimed catalyst. (2) it appears that the instant claim 1 does not exclude the "halogen component" disclosed by the Bogan reference due to the opening phrase "comprising" in line 1.

Applicants further urging on the intended use of the instant catalyst vs. the intended use of the Bogan's catalyst is also noted. It would appear that the instant claims are drawn to a catalyst, and not a process of use. As discussed in the rejection that the intended use has no bearing on the patentability of the instant catalyst, but the limitations of the catalyst and its characteristics are able to stand alone. See *In re Pearson 181* and *In re Thuau*.

It is the Examiner's position to conclude that the rejection is proper, thus, it is maintained.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Conclusion***

6. Claims 1-11 are pending in the application. Claims 1-11 are rejected. No claims are allowed.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Cam Nguyen, whose telephone number is (571) 272-1357. The examiner can normally be reached on Mon, Wed, Thur, & Fri from 8:45 am. to 5:15 pm.

The appropriate fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to telephone number (571) 272-1700.

Nguyen/cnn *cnn*

February 06, 2005

*Cam Nguyen*  
**CAM N. NGUYEN**  
**PRIMARY EXAMINER**

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